

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 23-mj-8082-RMM

UNITED STATES OF AMERICA

vs.

BRAYAN LENIN ZELAYA-ELVIR,

Defendant.

FILED BY SP D.C.

Feb 13, 2023

ANGELA E. NOBLE
CLERK U.S. DIST. CT.
S. D. OF FLA. - West Palm Beach

CRIMINAL COVER SHEET

1. Did this matter originate from a matter pending in the Northern Region of the United States Attorney's Office prior to August 8, 2014 (Mag. Judge Shaniek Maynard)? ☐ Yes ☒ No
2. Did this matter originate from a matter pending in the Central Region of the United States Attorney's Office prior to October 3, 2019 (Mag. Judge Jared Strauss)? ☐ Yes ☒ No

Respectfully submitted,

MARKENZY LAPOINTE
UNITED STATES ATTORNEY

BY:

Shannon O'Shea Darsch

SHANNON O'SHEA DARSCH
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AO 91 (Rev. 08/09) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

United States of America
v.
BRAYAN LENIN ZELAYA-ELVIR

Case No. 23-mj-8082-RMM

Defendant(s)

CRIMINAL COMPLAINT BY TELEPHONE OR OTHER RELIABLE ELECTRONIC MEANS

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of January 8, 2023 in the county of Palm Beach in the
Southern District of Florida, the defendant(s) violated:

Code Section

Offense Description

8 U.S.C. § 1326(a)

Illegal re-entry after removal.

This criminal complaint is based on these facts:

SEE ATTACHED AFFIDAVIT.

☒ Continued on the attached sheet.

Complainant's signature

HSI TFO Andy Korzen

Printed name and title

Attested to by the Applicant in accordance with the requirements of Fed.R.Crim.P. 4.1 by Earetime

Date:

2/13/23

Judge's signature

City and state: West Palm Beach, Florida

Honorable Ryon M. McCabe, United States Magistrate Judge
Printed name and title

**AFFIDAVIT
OF
ANDY KORZEN
UNITED STATES DEPARTMENT OF HOMELAND SECURITY
IMMIGRATION AND CUSTOMS ENFORCEMENT**

I, Andy Korzen, being duly sworn, depose and state as follows:

1. I am a Task Force Officer (TFO) with the Homeland Security Investigations (HSI), and I am also Deportation Officer with the Immigration and Customs Enforcement (ICE) and have been so employed for over nineteen years. I am currently assigned to the HSI, West Palm Beach, Florida. My duties and responsibilities include enforcing criminal and administrative immigration laws of the United States. I have also conducted and participated in investigations of this nature.

2. This affidavit is based upon my own knowledge as well as information provided to me by other law enforcement officers. This affidavit does not set forth every fact known to me regarding the investigation but only those facts necessary to establish probable cause to believe that Brayan Lenin ZELAYA-ELVIR committed the offense of illegal re-entry after removal, in violation of Title 8, United States Code, Section 1326(a).

3. On or about January 8, 2023, Brayan Lenin ZELAYA-ELVIR was arrested in Palm Beach County, Florida for the offense of battery. He was booked and detained at the Palm Beach County Jail. On Or about January 9, 2023, Brayan Lenin ZELAYA-ELVIR was released from the custody on own recognizance.

4. On or about February 12, 2023, Brayan Lenin ZELAYA-ELVIR was re-arrested in Palm Beach County, Florida for the offense of driving under the influence. He was again booked and detained at the Palm Beach County Jail.

4. A review of the immigration records shows that Brayan Lenin ZELAYA-ELVIR is a native and citizen of Honduras. Records further show that on or about September 20, 2011, Brayan Lenin ZELAYA-ELVIR was ordered removed. The Order of Removal was executed on or about September 29, 2011, whereby Brayan Lenin ZELAYA-ELVIR was removed from the United States and returned to Honduras.

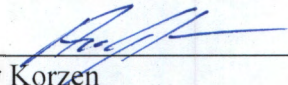
5. Thereafter, Brayan Lenin ZELAYA-ELVIR re-entered the United States illegally, and on or about July 4, 2012, was removed and returned to Honduras for the second time.

6. Brayan Lenin ZELAYA-ELVIR's fingerprints taken in connection with his January 8, 2023, arrest in Palm Beach County were scanned into the IAFIS system. Results confirmed that scanned fingerprints belong to the individual who was previously removed from the United States, that is Brayan Lenin ZELAYA-ELVIR.

7. A record check was performed in the Computer Linked Application Informational Management System to determine if Brayan Lenin ZELAYA-ELVIR filed an application for permission to reapply for admission into the United States after deportation or removal. After a search was performed in that database system, no record was found to exist indicating that Brayan Lenin ZELAYA-ELVIR obtained consent from the Attorney General of the United States or from the Secretary of Homeland Security, for re-admission into the United States as required by law.

8. Based on the foregoing, I submit that probable cause exists to believe that, on or about January 8, 2023, Brayan Lenin ZELAYA-ELVIR, an alien who has previously been deported and removed from the United States, was found in the United States without having received the express consent from the Attorney General or the

Secretary of the Department of Homeland Security for re-admission into the United States, in violation of Title 8, United States Code, Section 1326(a).



Andy Korzen
Task Force Officer
Homeland Security Investigations

Sworn and Attested to me by Applicant by Telephone (Facetime) pursuant to Fed. R. Crim. P. 4(d) and 4.1 this 13 day of February 2023.



RYON McCABE
UNITED STATES MAGISTRATE JUDGE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: BRAYAN LENIN ZELAYA-ELVIR

Case No: _____

Count #: 1

Illegal re-entry after removal

8 U.S.C. § 1326(a)

* **Max. Term of Imprisonment:** 2 Years

* **Max. Supervised Release:** 1 Year

* **Max. Fine:** \$250,000

* **Special Assessment:** \$100

*Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.